

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.2494 OF 2007

Pramodhnath P. Jain. ..Petitioner.

V/s.

Bombay Repairs and Reconstruction Board
MHADA, Griha Nirman Bhavan & Ors. ..Respondents.

Mr.Kiran Nikam i/b. Ashwinkumar & Co. for
petitioner.

Mr.G.W.Mattos, AGP for Respondent.

CORAM: A.M.KHANWILKAR, J

DATE : DECEMBER 11, 2007.

P.C. :

1. Heard Counsel for the parties.

2. In terms of the Order dated 20th April, 2006 passed by this Court in Writ Petition No.992 of 2006, the Petitioner was relegated before the Chief Officer for consideration of his eligibility for allotment of suitable accommodation. The Chief Officer by Order dated 8th January, 2007 has answered that issue taking into account relevant materials, in particular, land acquisition file wherein list of tenants, occupants is certified by the Land Acquisition Officer and which was published. The

said list does not contain the name of the Petitioner herein. The Officer has recorded that claimant has produced only zerox copies of two rent receipts. No document such as of vacation notice or any other document to support the claim of the occupation is forthcoming from the Petitioner. The Chief Officer has also noted that the Petitioner has failed to produce electricity bills, bank account books showing the address of the business, telephone bill to support the claim that he was occupying the premises as tenant. Taking over all view of the matter, the Chief Officer has answered the issue against the Petitioner. That is the finding of fact reached by the Chief Officer on consideration of relevant materials before him, which is binding on this Court.

3. Counsel for the Petitioner would place reliance on earlier departmental correspondence to contend that at one stage officer accepted the claim of the Petitioner. This submission clearly overlooks that if the department had already accepted the claim of the Petitioner, there was no reason to enquire into the issue of his eligibility. It is precisely for that reason, the matter was remanded before the Chief Officer in terms of the Order dated 20th April, 2006. On account of that remand, the Petitioner was

obliged to produce relevant materials, as would have been advised in the matter. But no tangible material has been produced by the Petitioner, which would have persuaded the Chief Officer to accept the claim of the Petitioner. The Chief Officer cannot be faulted for having relied on the official documents, such as land acquisition file, which was duly certified by the Land Acquisition Officer. Counsel for the Petitioner submits that it is noted in the interdepartmental communication that the said file was missing. This submission does not take the matter any further for the Petitioner. It is not the Petitioner's case that the Chief Officer has had no occasion to peruse the relevant file. Whereas, the Chief Officer has positively recorded of having perused that file, as is stated by him in the Order. In the circumstances, there is no merit in this Petition. Hence, dismissed.

(A.M.KHANWILKAR, J)